

09/13/00  
1c685 U.S. PTO

Patent  
Attorney's Docket No. 021565-078

09/661016  
09/13/00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR FILING CONTINUATION/DIVISIONAL  
APPLICATION UNDER 37 C.F.R. § 1.53(b)

Box PATENT APPLICATION

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This is a request for filing a ☐ continuation ☒ divisional application under 37 C.F.R. § 1.53(b) of pending Application No. 09/176,320 filed on October 19, 1998, for RECOMBINANT PLANT EXPRESSING NON-COMPETITIVELY BINDING Bt INSECTICIDAL CRYSTAL PROTEINS, by the following named inventor(s):

- (a) Full Name Herman VAN MELLAERT
- (b) Full Name Johan BOTTERMAN
- (c) Full Name Jeroen VAN RIE
- (d) Full Name Henk JOOS

☒ The entire disclosure of the prior application from which a copy of the oath or declaration is supplied herewith is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

☐ This application is being filed by less than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(2), the Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application.

- (a) Full Name \_\_\_\_\_
- (b) Full Name \_\_\_\_\_
- (c) Full Name \_\_\_\_\_

☐ This application is being filed by more than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(2), the Commissioner is requested to add the name(s) of the following person or persons who are inventors of the invention being claimed in this application.



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- (a) Full Name \_\_\_\_\_  
(b) Full Name \_\_\_\_\_  
(c) Full Name \_\_\_\_\_

1. ☒ Enclosed is a copy of the prior Application No. 09/176,320 as originally filed on October 22, 1998, including copies of the specification, claims, drawings and the executed oath or declaration as filed.
2. ☐ Enclosed is a revised prior application and a copy of the prior executed oath or declaration as filed. No new matter has been added to the revised application.
3. ☐ \_\_\_\_\_ statement(s) claiming small entity status ☐ are enclosed ☐ were filed in prior Application No.   , filed on   .
4. ☒ The filing fee is calculated below ☒ and in accordance with the enclosed preliminary amendment:

CLAIMS					
	NO. OF CLAIMS		EXTRA CLAIMS	RATE	FEE
Basic Application Fee					\$690.00 (101)
Total Claims	7	MINUS 20 =	---	x \$18.00 (103) =	
Independent Claims	2	MINUS 3 =	---	x \$78.00 (102) =	
If multiple dependent claims are presented, add \$260.00 (104)					
Total Application Fee					\$690.00
If small entity status is claimed, subtract 50% of Total Application Fee					
Add Assignment Recording Fee of if Assignment document is enclosed					
<b>TOTAL APPLICATION FEE DUE</b>					<b>\$690.00</b>

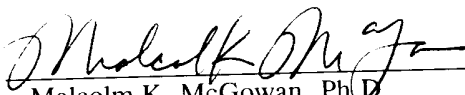
5. ☐ Charge \$ \_\_\_\_\_ to Deposit Account No. 02-4800 for the fee due.

6. ☒ A check in the amount of \$ 690.00 is enclosed for the fee due.
7. ☒ The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.
8. ☒ Cancel in this application original claims 2-19 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
9. ☒ Amend the specification by inserting before the first line the sentence: --This application is a ☐ continuation, ☒ divisional, of Application No. 09/176,320, filed October 22, 1998, which is a divisional of Application No. 08/465,609, filed June 5, 1995, which is a continuation of Application No. 08/173,274, filed December 23, 1993, which is a continuation of Application No. 07/640,400, filed January 22, 1991.--
10. ☐ Transfer the drawings from the pending prior application to this application and abandon said prior application as of the filing date accorded this application. A duplicate of this paper is enclosed for filing in the prior application file. (May only be used if signed by person authorized under 37 C.F.R. § 1.138 and before payment of issue fee.)
11. ☒ New drawings are enclosed.
12. ☒ Priority of Application No. 89401499.2 filed on May 31, 1989 in United Kingdom (country) and of PCT/EP90/00905 filed on May 30, 1990 is claimed under 35 U.S.C. § 119.
- ☒ The certified copy of the priority application
- ☐ is enclosed
- ☒ was filed on \_ in prior Application No. 07/640,400, filed on January 22, 1991
- ☐ has not yet been filed.
13. ☒ A preliminary amendment is enclosed.
14. ☒ An Information Disclosure Statement is enclosed.
15. ☐ A General Authorization for Payment of Fees and Petitions for Extensions of Time is enclosed.
16. ☒ Also enclosed Request for Transfer of Computer Sequence Listing with paper copy.
17. ☒ The power of attorney in the prior application is to R. Danny Huntington.
- a. ☒ The power appears in the original papers in the prior application.
- b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.

- c. ☒ Recognize as Associate Attorney Malcolm K. McGowan, Ph.D., Reg. No. 39,300.
- d. ☒ Address all future communications to: (May only be completed by applicant, or attorney or agent of record.)

R. Danny Huntington, Esq.  
BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, Virginia 22313-1404

Date: September 13, 2000  
Date

By:   
Malcolm K. McGowan, Ph.D.  
Registration No. 39,300

ADDRESS OF  
SIGNATOR:

BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

- ☐ inventor(s)  
☐ assignee of complete interest  
☐ attorney or agent of record  
☒ filed under 37 C.F.R. § 1.34(a)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of	)	
	)	
Herman VAN MELLAERT et al.	)	Group Art Unit: Unassigned
	)	
Application No.: TBA (Div of 09/176,320)	)	Examiner: Unassigned
	)	
Filed: Even date herewith	)	
	)	
For: RECOMBINANT PLANT	)	
EXPRESSING NON-	)	
COMPETITIVELY BINDING Bt	)	
INSECTICIDAL CRYSTAL	)	
PROTEINS	)	

**REQUEST FOR TRANSFER OF COMPUTER  
READABLE SEQUENCE LISTING FROM ANOTHER  
APPLICATION TO THE PRESENT APPLICATION**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The computer readable form in this application, TBA (Div of 09/176,320), is identical with that filed in Application Serial No. 09/176,320, filed October 19, 1998. In accordance with 37 C.F.R. §1.821(e), please use the only computer readable form filed in that application as the computer readable form for the instant application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant application. A paper copy of the Sequence Listing is included in a separately filed preliminary amendment for incorporation into the specification.

Applicants' undersigned representative hereby affirms:

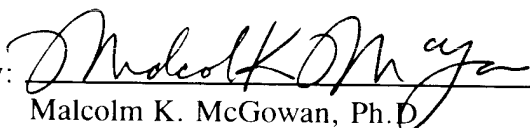
1. That the content of the paper and computer readable copies of the Sequence Listing, submitted in accordance with 37 C.F.R. 1.821(c) and (e), respectively, are the same in compliance with 1.821(f); and
2. That the submission, filed in accordance with 37 C.F.R. 1.821(g) herein does not include new matter.

In the event that there are any questions relating to this request, or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.116 and 1.117 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By:   
Malcolm K. McGowan, Ph.D.  
Registration No. 39,300

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
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Date: 13 September 2000